

OFFICES NEW YORK NEW JERSEY CONNECTICUT

July 13, 2022

BY E-MAIL AND ECF

Honorable John P. Cronan
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street, Room 1320
New York, New York 10007

Re: Better Holdco, Inc. v. Beeline Loans, Inc., No. 1:20-cv-08686 (JPC) (SN)

Dear Judge Cronan:

This firm represents Defendant Beeline Loans, Inc. (“Beeline”) in the above-captioned matter. Pursuant to Rule 4.B.ii of Your Honor’s Individual Rules and Practices in Civil Cases (“Rules”), Beeline respectfully requests leave to file one document under seal in connection with its Memorandum of Law in Opposition to Plaintiff Better Holdco, Inc.’s (“Plaintiff”) Motion to Strike or Exclude Beeline’s Proposed Experts.

I. Documents Designated Confidential by Plaintiff

“The presumption of public access to judicial documents is based on the need for federal courts, although independent—indeed, particularly because they are independent—to have a measure of accountability and for the public to have confidence in the administration of justice.” *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006). The mere filing of a paper or document with the court is insufficient to render that paper a “judicial document;” the item filed must be relevant to the performance of the judicial function and useful in the judicial process. *Id.* “Access to written documents filed in connection with pretrial motions is particularly important in the situation ... where no hearing is held and the court’s ruling is based solely on the motion papers.” *Id.* at 124 (internal citation omitted). The court must balance competing considerations against common law presumptions of access. *Id.* at 120.

Beeline seeks leave to file under seal one document that Plaintiff Better Holdco, Inc. (“Plaintiff”) has designated as Confidential Discovery Material under the Amended Protective Order (*see* Dkt. No. 101).

1. Exhibit C to the Modica Declaration in support of Beeline’s Opposition to Plaintiff’s Motion to Strike or Exclude Beeline’s Proposed Experts is the expert report of Plaintiff’s expert, Ronald Schnell. Plaintiff has previously designated this document as Attorneys’ Eyes Only.


COFFEY MODICA O'MEARA CAPOWSKI

Hon. John P. Cronan
July 13, 2022
Page 2

Beeline takes no position regarding the need for sealing the above document and reserves the right to challenge Plaintiff's designation of same as Confidential Discovery Material.

We are available at the Court's convenience to discuss this application.


Respectfully submitted,


Robert Modica, Esq.

The Court understands from the parties' letters that Exhibit C to the Modica Declaration consists of pages 1, 5, and 9-10 of the Schnell Report. In light of Plaintiff's letter dated July 15, 2022, advising the Court that it withdraws its confidentiality designations with respect to pages 1, 5, and 9-10 of the Schnell Report, *see* Dkt. 250, Defendant's request to file Exhibit C to the Modica Declaration under seal is denied. Defendants shall file Exhibit C to the Modica Declaration publicly on the docket.

SO ORDERED.

Date: July 18, 2022
New York, New York


JOHN P. CRONAN
United States District Judge

COFFEY MODICA O'MEARA CAPOWSKI